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PATENT



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Michelle Ludwig  
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In re application of:

Behr et al.

)

) Examiner: David H. Kruse

Serial No.: 10/790,430

)

) Group Art Unit: 1638

Filed: March 1, 2004

)

) Conf. No. 9938

For: CORN EVENT PV-ZMGT32(NK603)

)

AND COMPOSITIONS AND METHODS

)

FOR DETECTION THEREOF

)

MAIL STOP AMENDMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

RESPONSE TO ELECTION/RESTRICTION REQUIREMENT UNDER 35 U.S.C. §121

This paper is filed in response to the Office communication dated May 19, 2004. It is respectfully requested that the election below be entered with traverse and that the application be examined on the merits.

REMARKS

Subsequent to receipt of this Election/Restriction Requirement, Applicant's attorney called Examiner Kruse to inquire as to whether he had received the Preliminary

Amendment that had been filed simultaneously with this divisional application. The Preliminary Amendment had instructed the Examiner to cancel claims 1-6, 8, 10, 12, 14-15 as filed, thereby rendering the Restriction Requirement moot. The Examiner advised that he had not yet received that paper and requested Applicant's Attorney to respond to the Election/Restriction electing the same claims requested in the Preliminary Amendment. Pursuant to the Examiner's request, in the action dated May 19, 2004, the U.S. Patent and Trademark Office required restriction under 35 U.S.C. 121 from among the following groups:

- I. Claims 1-5 and 15, drawn to a DNA construct, a plant comprising said construct and a method of making said plant, classified in class 800, subclass 300.1, for example.
- II. Claim 6, drawn to a DNA construct comprising *Zea mays* genomic DNA, construct vector DNA and rice actin 1 promoter DNA (SEQ ID NO:7), classified in class 435, subclass 320.1, for example.
- III. Claim 6, drawn to a DNA construct comprising *A. tumefaciens* nos 3' terminator DNA, construct vector DNA, *Zea mays* plastid genes rps11 and rpoA, and *Zea Mays* genomic DNA (SEQ ID NO:8), classified in class 436, subclass 320.1, for example.
- IV. Claims 7, 9, 11, 13 and 16, drawn to PCR primer DNA molecules and a method of detecting the presence of a DNA molecule in a corn plant using said method, directed to SEQ ID Nos:7, 9 and 10, classified in class 435, subclass 6, for example.
- V. Claims 7, 8, 11, 13 and 16, drawn to PCR primer DNA molecules and a method of detecting the presence of a DNA molecule in a corn plant using said method, directed to SEQ ID Nos:8, 11 and 12, classified in class 435, subclass 6, for example.
- VI. Claim 10, drawn to a corn plant that produces an amplicon using SEQ ID Nos:9 and 10, classified in class 800, subclass 300.1, for example.
- VII. Claim 10, drawn to a corn plant that produces an amplicon using SEQ ID Nos:11 and 12, classified in class 800, subclass 300.1.

VIII. Claim 12, drawn to a method of detecting the presence of a DNA molecule comprising SEQ ID NO:7, comprising SEQ ID Nos:9 and 10, classified in class 435, subclass 6, for example.

IX. Claim 12, drawn to a method of detecting the presence of a DNA molecule comprising SEQ ID NO:8, comprising SEQ ID Nos:11 and 12, classified in class 435, subclass 6, for example.

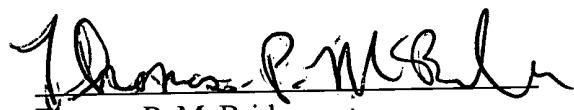
X. Claim 14, drawn to a method of breeding corn plant using a molecular marker directed to DEQ ID NO:7, comprising markers designated as SEQ ID Nos:9 and 10, classified in class 800, subclass 267, for example.

XI. Claim 14, drawn to a method of breeding corn plant using a molecular marker directed to SEQ ID NO:8, comprising markers designated as SEQ ID Nos:11 and 12, classified in class 800, subclass 267, for example.

Applicants elect Group IV consisting of Claims 7, 9, 11, 13 and 16 (the claims remaining after the Preliminary Amendment is entered) and respectfully request that the application be examined on the merits. Further, Applicants reserve the right to file divisional applications to further prosecute non-elected groups.

Should any questions arise or if Applicants or Applicants' attorney can facilitate the examination of this application, it is respectfully requested that the PTO contact the undersigned attorney.

Respectfully submitted,



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